

SEP 01 2004

FILED

BEFORE THE DEPARTMENT OF INSURANCE  
STATE OF NEBRASKA


STATE OF NEBRASKA	)	CAUSE NO.: A-1566
DEPARTMENT OF INSURANCE,	)	
	)	
PETITIONER,	)	
	)	RECOMMENDED ORDER
vs.	)	AND ORDER
	)	
JEROME J. O'CONNOR, JR.	)	
	)	
RESPONDENT.	)	

This matter was submitted to Christine M. Neighbors, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance, by stipulation of the parties in the Stipulation of the Facts, Conclusions of Law, Agreement to Waive Hearing, and Agreement to Submit Matter to Hearing Officer for Disposition ("Stipulation") filed on August 2, 2004. Therefore, the only issues addressed in this pleading are whether a penalty should be imposed and, if so, whether the penalty is an administrative fine, or suspension or revocation of license or a combination thereof.

The Nebraska Department of Insurance ("Department") is represented by its attorney, Martin Swanson. Jerome J. O'Connor, Jr., is represented by Attorney Thomas Brantly, Hascall, Jungers & Garvey. As a result of the Stipulation, which is attached hereto as Exhibit "A" and incorporated herein by reference, the hearing officer recommends that a penalty is appropriate, as a result of the six admitted violations of Nebraska insurance laws referenced in the Stipulation, and hereby recommends that Respondent's insurance producer's license be suspended for a period of one year from the date the Director of Insurance signs this Order. The suspension is to run concurrently with the suspension ordered in A-1536.

Dated this 1<sup>st</sup> day of September, 2004.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE


  
Christine Neighbors  
Hearing Officer

CERTIFICATE OF ADOPTION

I have reviewed the foregoing Recommended Order and hereby certify that the Recommended Order is adopted as the official and final Order of this Department in the matter of State of Nebraska Department of Insurance v. Jerome J. O'Connor, Jr., Cause No.: A-1566.

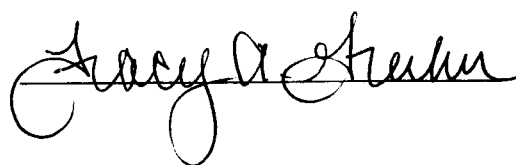
Dated this 1<sup>st</sup> day of September, 2004.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE

  
L. TIM WAGNER  
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Recommended Order and Order was served upon the Respondent by mailing a copy to Respondent's counsel, Thomas Brantley, Hascall, Jungers & Garvey, 101 West Mission Ave, Bellevue, NE 68005 by certified mail, return receipt requested, on this 3<sup>rd</sup> day of September, 2004.



NEBRASKA DEPARTMENT  
OF INSURANCE

BEFORE THE DEPARTMENT OF INSURANCE  
STATE OF NEBRASKA

AUG 02 2004

FILED

STATE OF NEBRASKA	)	
DEPARTMENT OF INSURANCE,	)	
	)	
PETITIONER,	)	STIPULATION OF THE FACTS,
	)	CONCLUSIONS OF
VS.	)	LAW, AGREEMENT TO WAIVE
	)	HEARING, AND
JEROME J. O'CONNOR, JR.	)	AGREEMENT TO SUBMIT MATTER
	)	TO HEARING OFFICER FOR
	)	DISPOSITION
RESPONDENT.	)	
	)	
	)	
	)	CAUSE NO. A-1566
	)	
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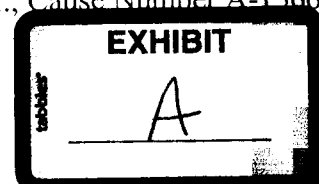
In order to resolve this matter, the Nebraska Department of Insurance ("Department"), by and through its attorney, Martin W. Swanson and Jerome J. O'Connor, Jr., ("Respondent"), mutually stipulate and agree as follows:

JURISDICTION

1. The Department has jurisdiction over the subject matter and Respondent pursuant to Neb. Rev. Stat. §44-101.01 and §44-4001, et seq.
2. Respondent was licensed as an insurance agent under the laws of Nebraska at all times material hereto.

STIPULATIONS OF FACT AND AGREEMENT OF WAIVER OF HEARING AND  
AGREEMENT TO SUBMIT MATTER TO HEARING OFFICER FOR DISPOSITION

1. The Department initiated this administrative proceeding by filing a petition styled State of Nebraska Department of Insurance vs. Jerome J. O'Connor, Jr., Cause Number A-1566 on



May 26, 2004. A copy of the petition was served upon the Respondent at the Respondent's address registered with the Department by certified mail, return receipt requested.

2. Respondent stipulates and admits that he violated Neb. Rev. Stat. §44-4059(1)(b) (twice), Neb. Rev. Stat. §44-4059(1)(h) (twice) and Neb. Rev. Stat. §44-4065(1) (twice) as a result of the following conduct:

- a. On July 17, 2003, the Iowa Department of Insurance initiated an administrative action against Respondent. The statement of charges alleged that Respondent failed to, under Iowa Code § 522B.16 (2003), report that he had an administrative or criminal action taken against Respondent in another jurisdiction within thirty days of the final disposition of an administrative matter or within thirty days of the initial pretrial hearing date in a criminal matter. Specifically, Respondent failed to report to Iowa administrative actions taken against him in Nebraska, namely administrative actions that Respondent consented to on April 2, 2003 and June 30, 2003.
- b. On December 4, 2003, Iowa Administrative Law Judge Martin H. Francis ordered, pursuant to a consent signed by Respondent on November 24, 2003, that Respondent was subject to a one-year self-supervised insurance license probationary period and was to pay a \$750 civil penalty to the Iowa Department of Insurance. Respondent was also to report to the Iowa Department of Insurance any administrative action taken against him in another jurisdiction or by another governmental agency in Iowa within thirty days of the final disposition of the matter. Respondent was also to report any criminal prosecution in any jurisdiction. Respondent failed to report the consent order and the findings of Judge Francis to the Nebraska Department of Insurance within thirty days nor has he provided any of the documents from the Iowa transgression. In fact, Respondent has not reported this matter at all to the Nebraska Department of Insurance.
- c. On April 1, 2004, Martin H. Francis, Iowa Administrative Law Judge, signed an order recognizing a consent order signed between the Iowa Department of Insurance and Respondent on March 25, 2004. The order denoted that Respondent had failed to pay his civil penalty of \$750 from the December 4, 2003, order and had yet to supply the documentation from his administrative actions taken against him in Nebraska. As a result of the consent, Respondent's Iowa producer's license was suspended until the fine was paid and he supplied the Iowa Department of Insurance with the necessary paperwork. Additionally, his probation from the December 3, 2003 order continued to apply for the remainder of the one- year period. Respondent has failed to report this matter to the Nebraska Department of Insurance within thirty days and has, in fact, never

reported this administrative action to the Nebraska Department of Insurance. Nor has Respondent provided any documentation from Iowa regarding the Iowa matter as described herein.

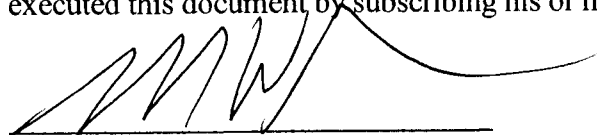
3. Respondent was informed of his right to a public hearing. Respondent waives that right, and enters into this Stipulation and Agreement freely and voluntarily. Respondent understands and acknowledges that by waiving his right to a public hearing, Respondent also waives his right to confrontation of witnesses and production of evidence. Petitioner and Respondent agree to submit written letter briefs to the Hearing Officer with regard to the potential penalty that may be imposed upon Respondent no later than July 28, 2004. Each party shall serve the other party with their letter brief in addition to providing the Hearing Officer a copy of said briefs. The Hearing Officer shall, in the normal course of business, issue a determination of a penalty, if any, after submissions of the letter briefs.

4. Respondent admits the allegations contained in the Petition and restated in Paragraph #2 above.

#### CONCLUSIONS OF LAW

Respondent's conduct as alleged above constitutes violations of Neb. Rev. Stat. §44-4059(1)(b) (twice), Neb. Rev. Stat. §44-4059(1)(h) (twice) and Neb. Rev. Stat. §44-4065(1) (twice).

In witness of their intention to be bound by these Stipulations of Fact, Conclusions of Law and Agreement to submit this matter to the Hearing Officer without a hearing, each party has executed this document by subscribing his or her signature below.

  
\_\_\_\_\_  
Martin W. Swanson, #20795  
Attorney for Nebraska

  
\_\_\_\_\_  
Respondent

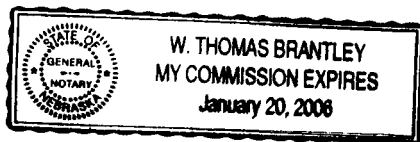
Department of Insurance  
941 "O" Street, Suite 400  
Lincoln, Nebraska 68508  
(402)471-2201

Date 7/07/04

7-27-04  
Date [Signature]  
Attorney for Respondent  
Date 7/27/04

State of Nebraska )  
County of Douglas ) ss.

On this 27<sup>th</sup> day of July, 2004, Jerome J. O'Connor, Jr. personally appeared before me and read this Consent Order, executed the same and acknowledged the same to be his voluntary act and deed.



[Signature]  
Notary Public

#### CERTIFICATE OF SERVICE

I hereby certify that a copy of the executed Consent Order was sent to Thomas Brantley, Hascall, Jungers, & Garvey, 101 West Mission Ave., Bellevue, Nebraska 68005, by certified mail, return receipt requested on this \_\_\_\_\_ day of July, 2004.

\_\_\_\_\_